

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.1017 of 1986

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For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 : No

MANUBHAI K PADIA-DECEASED THROUGH HIS HEIRS AND LEGAL R.

Versus

STATE GOVT OF GUJARAT

Appearance:

MR MD RANA for Petitioner.

Ms. S.D. Talati, ASSTT. GOVERNMENT PLEADER for
respondent Nos.1 and 2.

MR PV HATHI for Respondent No.3

CORAM : MR.JUSTICE R.A.MEHTA

Date of decision: 23/12/97

ORAL JUDGEMENT :

The original petitioner was a retired employee of the Panchayat Department. He retired from service, but did not get retirement benefits as there was some dispute regarding qualifying service and length of service. This petition, therefore, was filed.

2. On August 26, 1986, while admitting the petition,

the High Court had given the following direction :

"Rule. Heard the parties with regard to interim relief.

At this stage the contentions taken in the affidavit in reply filed by the respondent, be taken as proved and on that basis the respondents are directed to calculate the amount of gratuity payable to the petitioner. The respondents are further directed to deposit the amount of gratuity stated above in this Court latest before 15.10.1986. As and when the amount is deposited, the petitioner will be at liberty to withdraw the same from the Court after filing an undertaking to the effect that if the petitioner loses in the petition, the amount will be repaid by him within a period of fortnight from the date of the order that may be passed by this Court.

The respondents inter se will determine as to how much amount is payable by whom. Any of the respondents will not be permitted to contend that it was not responsible to pay the amount of gratuity for a particular period. If necessary, respondents may hold a joint meeting inter se and decide the question regarding the liability of each one of them. But in no case the respondents shall delay the calculation of the amount payable as and by way of gratuity and shall not delay the payment thereof."

3. Now, respondent no.3 has filed an affidavit on behalf of Jamnagar District Panchayat, in para 3 whereof it is stated that the petitioner's service came to be counted as continuous from 27.3.1953 when he joined Food Department under the Collector's order dated 25.3.1953 and accordingly out of total service from 1.10.1947 to 30.9.1980, the period of 4 years 5 months (from 1.10.1948 to 26.3.1953) was not treated as qualifying services as approved the Accountant General and accordingly the pension of the petitioner was fixed. The surviving dispute, therefore, is as to the period of 4 years and 5 months from 1.10.1948 to 26.3.1953.

4. Xerox copy of duplicate Service Book is produced by the heirs of the petitioner. The period prior to 26.3.1953 is also shown in the Service Book. The office of the Accountant General is, therefore, directed to examine this period in the Service Book and decide the

question regarding this period as to whether it can be treated as continuous service and added to the period for retirement benefits.

5. The office of the Accountant General shall decide this question as expeditiously as possible, preferably within the period of three months from the date of receipt of writ of this judgment. If, as a result of reconsideration whatever amount becomes payable shall be paid to the heirs of the deceased employee.

6. The petitioner is directed to supply a xerox copy of Service Book to the Accountant General.

7. The petition is allowed to the aforesaid extent. Rule is made absolute. No order as to costs.

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